

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI

UNITED STATES OF AMERICA . Cause No. 1:08CR03

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Plaintiff . Oxford, Mississippi
. December 16, 2008
v. . 10:00 a.m.

JOSEPH CASH LANGSTON

Oxford, Mississippi
December 16, 2008
10:00 a.m.

Defendant

10 SENTENCING AS TO COUNT 1 OF THE INFORMATION
11 BEFORE THE HONORABLE MICHAEL P. MILLS
12 U.S. CHIEF DISTRICT JUDGE

APPEARANCES:

15 For the Government: United States Attorney's Office
Northern District of Mississippi
16 BY: ROBERT NORMAN, ESQ.
BY: THOMAS DAWSON, ESQ.
17 900 Jefferson Avenue
Oxford, Mississippi 38655-3608

19 For the Defendant: TONY FARESE, ESQ.
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22 Court Reporter: Rita Davis Sisk, FCRR, RPR
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25 | Proceedings recorded by mechanical stenography, transcript produced by computer.

1 (CALL TO ORDER OF THE COURT)

2 THE COURT: Madam Clerk, would you call the docket,
3 please.

4 THE COURTROOM DEPUTY: Court calls Cause No.

5 1:08cr03, United States of America vs. Joseph C. Langston.

6 This is a sentencing as to Count 1 of the information.

7 THE COURT: All right. Who speaks for the
8 Government?

9 MR. DAWSON: I do, Your Honor.

10 THE COURT: And what is your name?

11 MR. DAWSON: Tom Dawson.

12 THE COURT: And who do you have with you?

13 MR. DAWSON: I have Robert Norman, Assistant United
14 States Attorney, and John Alexander, our chief of the criminal
15 division.

16 THE COURT: All right. And who speaks for the
17 defendant?

18 MR. TONY FARESE: Tony Farese and Steve Farese from
19 Ashland, Your Honor.

20 THE COURT: All right. And are you ready for the
21 sentencing of your client?

22 MR. TONY FARESE: We are, Your Honor.

23 THE COURT: Before we begin, are there any unresolved
24 objections to the presentence report?

25 MR. TONY FARESE: No, sir, not on behalf of the

1 defendant, Your Honor.

2 THE COURT: All right. If you're ready to proceed,
3 you may come forward.

4 (Parties complying.)

5 THE COURT: All right, Mr. Langston, on a previous
6 day, you entered a plea of guilty to Count 1 of an information
7 which charged conspiracy to corruptly influence an elected
8 state official. And you are now before the Court for
9 sentencing.

10 Have you reviewed the presentence report with your client?

11 MR. TONY FARESE: I have, Your Honor.

12 THE COURT: And you have no objections?

13 MR. TONY FARESE: We have no objections, Your Honor.

14 THE COURT: Does the Government have any objections?

15 MR. DAWSON: We do not, Your Honor.

16 THE COURT: All right. Before your sentencing,

17 Mr. Langston, is there anything you would like to say?

18 THE DEFENDANT: I would, Your Honor. If it please
19 the Court, Your Honor, I've said -- over the last 11 months and
20 nine days -- I'm sorry to so many deserving people in so many
21 different ways; but I don't think I've ever been able to find
22 the words to really communicate how sorry I am for my role in
23 this.

24 I said I was embarrassed and ashamed, and indeed I am.

25 But the most horrible part of all of it is not the pain and the

1 loss that I've caused myself, although great, it's the pain and
2 suffering that I've caused the people around me, my family and
3 my friends, my colleagues, who didn't deserve any of it.

4 I really struggle, Judge Mills, with what I've done. I've
5 looked at it every way I know how, spiritually, emotionally.
6 I've literally read volumes on how people handle a fall from
7 grace. But there's only one way that I could figure it out.
8 And that's -- and I hope my sons learn from me -- is to accept
9 responsibility for what I've done, to be honest about it, as
10 embarrassing as it may be, to try to identify those that I've
11 hurt with my senseless act and try to make it, as well as I
12 can, right by them.

13 It's been frustrating. Because this was not a tragedy of
14 chance or a tragedy of nature. It was a man-made tragedy. And
15 I had a role in it. And it -- it changed the life of the
16 people around me forever. I just can't imagine the sadness
17 ever going away.

18 But I broke one of my own rules. For 25 years, I
19 practiced law. And I told all sorts of fine young lawyers that
20 came through my office, "There is no client, there is no case
21 worth placing your bar license at risk, much less your
22 credibility and your honor." But I did that. I placed it at
23 risk. I can't believe I did it. But I did it.

24 I don't even know what to ask of anybody, of the Court or
25 anybody else, grace, compassion, forgiveness. Perhaps I'm

1 entitled to none of it. But I think you'll know. It's been a
2 nightmare. And I just can't wake up from it. But I'm so
3 sorry. If the good Lord will give me some time, I'll do right
4 by others; I'll try very hard to. I'm sorry, Judge.

5 THE COURT: All right. Thank you.

6 Mr. Farese, did you have anything to say?

7 MR. TONY FARESE: Yes, sir. Your Honor, this is the
8 saddest day in my legal career, to stand beside my friend, Joey
9 Langston. I've handled a lot of cases in 23 years, but this is
10 the saddest one. I've known Joey for about 24 years, and I
11 knew his father, Joe Ray Langston. There wasn't a nicer guy in
12 the world than Mr. Joe Ray. He was a respected lawyer in his
13 own right.

14 Joey chose, when he got out of law school, to go home and
15 practice law with him in his hometown in Booneville. And in
16 1986, when Mr. Joe Ray was 53 years of age, after a heart
17 transplant, he died and left Joey, at 29 years of age, at the
18 helm of that law firm. With the stress of the loss of his
19 father and the stress of taking over that firm, Joey became a
20 diabetic at the age of 29.

21 That's the Joey Langston I've known all these years, who
22 worked very hard, worked 12 to 14 hours a day to build a
23 thriving, successful trial practice in Booneville, who played
24 by the rules and became one of the most successful trial
25 lawyers I've had the pleasure of knowing.

1 During that entire time, he was married to his wonderful
2 wife, Tracey; and the Lord blessed them with three wonderful
3 boys. After his father's death, his mother became disabled.
4 Joey accepted the responsibility of supporting her and an aunt
5 as well. He always put family first.

6 And I know the Court wonders how could such a man be
7 before you today. I don't know the answer to that. All I know
8 is that he made the most horrible, most tragic mistake that a
9 lawyer can make. And it's cost him everything. It's cost him
10 his law license; it's cost him his practice. And most
11 importantly, it's cost him his honor.

12 The only explanation I can give the Court is that he got
13 lost for a brief period of time. He strayed from his core
14 values. There's no excuse for it. And Joey's made no excuse,
15 Your Honor.

16 The Government confronted him in January of this year.
17 And when he was confronted, he chose to admit his guilt and
18 enter a guilty plea. He didn't avail himself of his
19 constitutional rights and place the Government at task to make
20 them prove his guilt. He admitted his guilt and made no
21 excuses.

22 But on the same day that he appeared in your chambers, on
23 January 7th, and entered his plea, he began his cooperation
24 within the hour. The full extent of his cooperation is
25 outlined in the Government's 5K1.1 motion for a downward

1 departure, and I've never seen a stronger motion filed in my
2 23 years of practice. He's fully cooperated. The Government,
3 in that document, says that his cooperation exceeded their
4 expectations.

5 I believe it produced guilty pleas in the first Scruggs
6 matter. Joey's worked numerous hours with DOJ lawyers,
7 Assistant U.S. Attorneys, with FBI agents. He's testified to
8 the grand jury.

9 Some defendants you see are remorseful; very few you see,
10 I believe, are repentant. I believe Joey Langston is
11 repentant. He's experienced sorrow, regret, shame. And I've
12 seen it manifest itself physically in him.

13 I've spent countless hours with him since January of this
14 year. And what I've had to witness has been terrible. It's
15 actually been terrible. The burden of his own conduct has
16 almost been too much, I thought, for him to bear at times. I
17 can honestly tell the Court I've never seen anyone more
18 contrite and more remorseful than Joey.

19 He made his wrong right by settling with Mr. Wilson. He
20 settled that civil claim. There's a clause there that does not
21 allow us to reveal how much that was settled for, but it was
22 substantial. I think that proves that he was more than
23 remorseful; he was repentant.

24 Judge, you've had the opportunity to read the 344 letters
25 that were written on his behalf. What a wonderful testament to

1 the good things he's done. You've seen the countless comments
2 by people who love him from all walks of life who've seen his
3 acts of benevolence, who've seen his anonymous gifts, the pain
4 of funerals. Those show the Joey Langston I know, Your Honor.

5 This has had a detrimental effect on his health. I was in
6 Corinth, Mississippi, when Joey had a heart cath. We learned
7 from Dr. Patterson that he had, in fact, had a heart attack.
8 He's got two blockages. He suffers from coronary artery
9 disease, and he's also insulin dependent.

10 I know this Court is burdened with what's the appropriate
11 punishment for a crime of this nature. And it's a very, very
12 serious crime. I ask the Court to look to the 3553 factors in
13 Title 18, look at the history and character of the defendant;
14 look at his community ties and his good works, the assistance
15 he's given to his mother and his aunt, the assistance he's
16 given to other family members. I believe he's given
17 extraordinary acceptance of responsibility as is evidenced by
18 the Government's 5K motion.

19 The seriousness of the offense and the respect for the law
20 and just punishment must be considered under 3553(a)(2)(A). I
21 think the Government's 36-month cap recognizes the upper range
22 of the offense is serious. There was no statutory mandatory
23 minimum in this offense.

24 And we've had additional punishment, Your Honor, the loss
25 of his law license forever. And I do believe -- and I will

1 suggest to the Court -- that the length of delay in his
2 sentencing that's allowed him to continue to cooperate with the
3 Government has been detrimental mentally and emotionally on his
4 health.

5 Under 3553(a)(2)(B)(c), they look at adequate deterrence
6 and protection of the public. There's been a long history of
7 crime-free conduct in Joey's life. There was no move by the
8 Government to incarcerate him pending sentencing.

9 And then, Your Honor, the guidelines, policy statements,
10 and commission research as articulated in 3553(a)(4)(A) and
11 then (5)(A).

12 I'm not going to be presumptuous enough to tell the Court
13 what it should do in sentencing. Joey's my friend. I pray for
14 leniency on his behalf. I don't know of anything more that a
15 man could do to right the wrong that he has committed than Joey
16 Langston has done in this matter.

17 I sincerely believe that he's repentant; that he's
18 genuinely sorry; and that there's been a change in him. The
19 only good thing that can come out of this, Your Honor, is the
20 lesson that he's been able to teach his children out of this.

21 And I've been there when those discussions have occurred.
22 They've been some of the toughest discussions that you'd have
23 to witness. I ask the Court for leniency. I ask the Court to
24 greatly consider the words in the 5K1.1 motion. Thank you.

25 THE COURT: Thank you.

1 Does the Government have anything to say?

2 MR. DAWSON: Just briefly, Your Honor. We have filed
3 a motion for downward departure pursuant to the terms of the
4 plea agreement and under Section 5K1.1 of the sentencing
5 guidelines. That motion is detailed and comprehensive. I
6 would like to expand on two points if the Court please.

7 Late in December of 2007, the United States Attorney's
8 Office was in the pretrial stages of what has become known as
9 Scruggs I. The evidence in that case was extremely strong.
10 But there has been no case that I've ever seen that could not
11 have been enhanced or made stronger.

12 Faced with the developing evidence of his own involvement
13 in what would become the 404(b) evidence in Scruggs I,
14 Mr. Langston, at our invitation, decided to do the right thing
15 and plead guilty to conspiracy to corruptly influence the
16 judicial process, cooperate and testify against the defendants
17 in what would become known as Scruggs II.

18 To say that this added evidentiary weight to the original
19 case would be a tremendous understatement. Similarly, it was a
20 capstone of that case. To put it in some perspective, one day
21 Mr. Langston was part of the Scruggs defense team as an
22 attorney; the next day, he was a convicted felon and a
23 Government witness against Mr. Scruggs. No one can be certain
24 as to the impact of that, but we believe that Mr. Langston's
25 decision to plead and cooperate was a significant factor in the

1 resolution of Scruggs I.

2 Now, the second point is a little less obvious. Again,
3 referring to January of '08, the United States Attorney's
4 Office was faced with the monumental task of litigating Scruggs
5 I. By some reports, the lawyers and paralegals representing
6 the Scruggs defendants were numbering between 17 and 20. We
7 had three attorneys prosecuting the case.

8 When Mr. Langston was confronted, he did not choose the
9 usual route of most white-collar defendants and certainly
10 white-collar defendants that were also lawyers. Mr. Langston
11 realized what he had done, desired to make it right, regardless
12 of the cost.

13 Now, what this had as a practical effect, it avoided the
14 Government having to launch a parallel investigation into
15 Scruggs II. There was substantial savings in resources,
16 manpower, both in the investigating stage and what would have
17 been the prosecutorial stage. So substantial assistance was
18 rendered by Mr. Langston, not only in the evidence provided in
19 various cases but in the saving of time, resources, and
20 manpower that was indeed substantial.

21 We have no doubt that Mr. Langston will continue the
22 cooperation that he has begun and effected quite -- I think as
23 one of the agents said -- exceedingly. And probably more than
24 he'd ever seen in his career. We'd ask the Court to accept the
25 plea agreement and favorably consider the 5K1.1 motion which

1 has been filed. Thank you.

2 THE COURT: All right. Thank you.

3 Well, I'm about to state the reasons for your sentence,
4 Mr. Langston. There being no objections, I will adopt the
5 presentence report without change. And I find in this case
6 that no count of conviction carries a mandatory minimum
7 sentence.

8 If I went under the statute, you could receive not more
9 than five years imprisonment, not more than three years
10 supervised release, not more than a \$250,000 fine; and a \$100
11 special assessment.

12 Under the guidelines, you have a total offense level of
13 27, a criminal history category of Roman Numeral I, and the
14 guidelines provide for an imprisonment range of up to
15 60 months. The guidelines, of course, cannot be longer than
16 the statute. The supervised release range under the guidelines
17 is 2 to 3 years with a fine of \$12,500 up to \$125,000.

18 The sentence to be imposed will be below the advisory
19 guideline range. And that's because of the binding plea
20 agreement for a sentence outside that range has been accepted
21 by the Court. You entered into what is known as an 11(c)(1)(C)
22 binding plea agreement in this case for a sentence of
23 imprisonment not to exceed three years. I have accepted that
24 agreement. And I find in this case that restitution is not
25 applicable.

1 In this case, the Government has also filed a motion for
2 downward departure based upon your substantial assistance. And
3 I have considered the statements that you have made and that
4 your attorney has made, that the Government has made, and the
5 many letters written on your behalf. And I've given a great
6 deal of thought to this case.

7 It's -- for the lawyers in the Northern District of
8 Mississippi and the Court, it's a very personal matter, because
9 you are an attorney of long standing in the northern district.
10 The young lawyers who wrote letters, and who Mr. Farese
11 referred to on your behalf, who have come through your firm are
12 outstanding young lawyers; and they are people of credibility.

13 It's also true to say that, of the attorneys who have
14 tried cases in this Court, you have as much talent as any
15 attorney that I have seen. You're an outstanding litigator.
16 And that does add the tragedy and shame to it, because with
17 those talents came a duty to truthfully, honorably, faithfully
18 represent your clients, not for your interests but theirs. And
19 that talent has been taken away.

20 I've thought about the purpose of a sentence in this case.
21 One, a deterrence. As Mr. Farese mentioned, that's one of the
22 3553 factors. I suspect from the lawyers that I know, the
23 lawyers -- the small town lawyers, people trying to make a
24 living, closing loans, writing wills, taking care of the people
25 in their community, that they don't need deterring. Most of

1 them, it would be absolutely unthinkable. So I don't know the
2 effect of deterrence in this case. It may deter those who need
3 some new boundaries to follow.

4 There's the issue of the Rule of Law, and that's what
5 we're really talking about here today, I think. The Rule of
6 Law is so important in a civilized society. Men and women from
7 America are dying today in at least two wars to preserve,
8 ultimately, what's the Rule of Law.

9 It's the Rule of Law that gives us the lifestyles that we
10 have. It gives us opportunity. It gives a reason for the
11 people who get up and go to work every day to get up and go to
12 work, because they believe that the people who are making
13 decisions, the people who have positions of trust, will not
14 violate that Rule of Law.

15 And the damage that you have done to the Rule of Law is
16 probably the real tragedy in this case. And it's something
17 that I also have to consider the effect of on the judicial
18 system, the Rule of Law, the things we believe in. Your
19 actions threaten the integrity of the judicial system.

20 And the plea agreement cap of 36 months was based your
21 assurance to the U.S. Attorneys that you would fully cooperate.
22 The filing of the 5K1.1 motion verifies to this Court that you
23 have honored that agreement. So the recommended sentence of
24 36 months is appropriate in this case.

25 This will be your sentence: Pursuant to the Sentencing

1 Reform Act of 1984, as modified by *U.S. v. Booker*, it is the
2 judgment of the Court that the defendant, Joseph C. Langston,
3 is hereby committed to the custody of the Bureau of Prisons to
4 be imprisoned for a term of 36 months on Count 1 of the
5 information. Upon release from imprisonment, the defendant
6 shall be placed on supervised release for a term of three years
7 on Count 1 of the information.

8 The defendant shall comply with the following mandatory
9 conditions: The mandatory drug testing condition is suspended
10 based on the Court's determination this defendant poses a low
11 risk of future substance abuse. The defendant shall not
12 possess a firearm, ammunition, destructive device, or any other
13 dangerous weapon. The defendant shall cooperate in the
14 collection of DNA as directed by the probation officer.

15 In this case, because of the financial gain to this
16 defendant, I think there is a need to reflect the seriousness
17 of the offense as to a fine. So the Court will upwardly depart
18 and order the defendant to pay a fine of \$250,000 to the U.S.
19 District Court Clerk's Office, Northern District of
20 Mississippi, under Count 1 of the information. A lump sum
21 payment of \$250,000 is due immediately but, in no event, to be
22 paid in full not later than January the 16th, 2009.

23 It is ordered that the defendant shall pay to the United
24 States District Court Clerk's Office, Northern District of
25 Mississippi, a special assessment of \$100 for each count of

1 conviction for a total of \$100 which is due immediately.

2 You have the right to appeal any sentence imposed
3 illegally or as a result of a miscalculation of the guidelines
4 or outside the guideline range or one that is plainly
5 unreasonable. If you're unable to pay for the cost of an
6 appeal, you may request the Court to waive such cost and/or
7 appoint you an attorney.

8 Mr. Langston, do you understand the sentence that I just
9 stated?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: All right. Do you wish to remain out on
12 bond?

13 MR. TONY FARESE: Yes, sir.

14 THE COURT: We're going to designate -- we will have
15 an institution designated for your service, and I'm going to
16 let you get there on your own. I'm going to designate
17 Thursday, January the 15th, 2009, before 2 p.m. as the date
18 and time for you to report.

19 And so that we have a record, I'll ask you to sign a
20 voluntary surrender form; and I'll ask your attorney to witness
21 it.

22 MR. TONY FARESE: Your Honor, could we make a
23 request? We would request that the Court consider recommending
24 Montgomery for him. We've done some research -- and he's
25 insulin dependent -- and we think that defendants are allowed

1 needles for insulin in Montgomery. They are not in some other
2 places, as we understand it. It's my understanding that he
3 takes up to four shots a day.

4 (Parties complying.)

5 THE COURT: We'll put in there a request that his
6 medical conditions be taken into consideration and make note of
7 that.

8 MR. TONY FARESE: Thank you, sir.

9 THE COURT: All right. Anything else?

10 MR. DAWSON: Not on behalf of the Government, Your
11 Honor.

12 THE COURT: All right, Mr. Langston, you'll be
13 notified by the Clerk of the Court as for the place to you
14 report; and I'm going to leave it up to you to get there. I
15 wish you the best of luck, and you're now excused. Court will
16 be in recess.

17 (THE SENTENCING HEARING ENDED AT 10:33 a.m.)

18
19 C E R T I F I C A T I O N

20 "I certify that the foregoing is a correct transcript from
21 the record of proceedings in the above-entitled matter,
22 December 16th, 2008."

23 /s/ Rita Davis Sisk
24 RITA DAVIS SISK, RPR, BCR, CSR #1626
25 Official Court Reporter